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Dale B. Halling
Law Office of Dale B. Halling
24 South Weber St., Ste 311
Colorado Springs CO 80903

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OFFICE OF PETITIONS

Applicant: Chang et al.
Appl. No.: 09/866,502
Filing Date: May 25, 2001
Title: METHOD OF IMPROVING THE RELIABILITY OF PEER-TO-PEER NETWORK
DOWNLOADS
Attorney Docket No.: SBC-0101 (T00353)
Pub. No.: US 2002/0178261 A1
Pub. Date: November 28, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on May 24, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the first inventor's name "Frederick Chang" is misspelled as "Frederic Chang".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable" A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the Office:

The request for corrected publication received on May 24, 2004, was not timely filed under 37 CFR 1.221(b).

The typographical error in the front page of the patent application publication, wherein the first inventor's name is misspelled is an Office mistake, but it is not a material error. The mistake is a

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

minor typographical. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

To avoid this type of problem in the future, applicant's representative should review the filing receipt and make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicant's request for a corrected patent application publication on May 24, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
 Commissioner for Patents
 P.O. Box 1450
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The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy